IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 43 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ADPRINT SERVICES LTD

Versus

COMMISSIONER OF INCOME TAX

Appearance:

MR RK PATEL for Petitioner

MR AKIL QURESHI for MR RP BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 11/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the applicant-assessee, the following question has been referred to this court under sec. 256(2) of the Income-tax Act, 1961, by the Income Tax Appellate Tribunal, Ahmedabad Bench 'A'.

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in disallowing advertisement expenditure under sec. 37(3A) of the Income-tax Act, 1961, to the tune of Rs. 36,532/- ?"

2. We have heard learned advocate Shri R.K. Patel appearing for the applicant-assessee and learned advocate Shri Akil Qureshi for the respondent-department.

3. At the time of hearing of this reference, it has been submitted by the learned advocates that similar question had been raised in I.T.R. No. 292/84 and it was decided on 29.4.99. Upon perusal of the judgment delivered in the said reference, it appears that this court has held in I.T.R. No. 292/84 that the question, which has been raised in this reference, is in the nature of question of fact. The question pertains to advertisement expenditure and after considering the facts of the case, which are similar to the facts of the present case, the court was of the view that answer to the question depends on the conclusions of facts reached by the Tribunal and this court had declined to answer the question, as in the opinion of this court, that was not a question of law.

4. It is not in dispute that the question, which has been referred to in the present case and in the case of the ITR which has been referred to hereinabove, is similar and the facts of the case are also similar. In view of this fact, respectfully following the judgment, which has been referred to hereinabove, we decline to answer the question as it pertains to a question of fact.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

(hn)